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SENATE

REPORT
100-345

NATIONAL APPLIANCE ENERGY CONSERVATION AMENDMENTS OF 1988

MAY 13 (legislative day, MAY 9), 1988.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2167]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2167) to amend the Energy Policy and Conservation Act to provide for Federal energy conservation standards for fluorescent lamp ballasts, having considered the same, reports favorably thereon with amendments to the text and recommends that the bill as amended, do pass.

The amendments are as follows:

1. On line 10 of page 2 and line 15 of page 3, insert the following before the period: ", as measured under text conditions specified in ANSI standard C82.2-1984, or as may be prescribed by the Secretary".

2. Page 2, line 25, strike out ", as determined" and all that follows through line 2 on page 3 and insert in lieu thereof a period.

3. Page 3, line 8, strike out "nominal" and insert in lieu thereof "ballast".

4. Page 3, line 14, insert "ballast" after "of".

5. Page 3, lines 19 and 25, insert the following before the period: ", or as may be prescribed by the Secretary".

6. Page 4, after line 5, insert the following and redesignate the subsequent paragraph accordingly:

"(2) Section 321(a)(1) of such Act (42 U.S.C. 6291(a)(1)) is amended by inserting the following before the period at the end thereof: ', except that such term includes fluorescent lamp ballasts distributed in commerce for personal or commercial use or consumption' ".

7. Page 4, lines 20 and 21, strike ", no later than July 1, 1989,".

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8. Page 4, line 22, insert the following before the period: ", or other test procedures determined appropriate by the Secretary".

9. Page 6, line 12, insert "current" after "input".

10. Page 7, lines 8 and 17, insert "fluorescent lamp" before "ballasts".

11. Page 8, after line 6, insert the following and redesignate the subsequent paragraph accordingly:

"(3) Subsection (e)(1)(C) of section 325 of such Act (42 U.S.C. 6295(e)(1)(C) is amended by inserting 'Volume' after 'Rated Storage'.".

Purpose

The purpose of S. 2167 is to increase the Nation's energy efficiency and to reduce the regulatory burden on the fluorescent lamp industry through the establishment of national energy efficiency standards for fluorescent lamp ballasts.

Background and Need

It is estimated that approximately 10 percent of the Nation's electricity is consumed by fluorescent lighting, most of which is installed in office, and institutional buildings. One component of the fluorescent light fixture is the "ballast" which converts source electricity into the characteristics needed for operating the fluorescent lamp. Conventional ballasts dissipate about 20 percent of the electricity entering the fixture as waste heat, while more efficient ballasts limit this loss to 10 percent or less. Because of this potential for increasing efficiency, five states have enacted legislation establishing energy efficiency standards for fluorescent light ballasts.

In 1975, Congress enacted the Energy Policy and Conservation Act (EPCA) (Public Law 94-163) which authorized, but did not require, DOE to establish mandatory efficiency standards for certain home applicances. In 1978, Congress enacted the National Energy Conservation Policy Act (NECPA) (Public Law 95-619) which amended EPCA to require that energy efficiency standards be established for each of 13 classes of appliances.

In 1981, however, DOE suspended the rulemaking process on these standards and in 1982 announced a finding that no standards were economically justified. In 1985 the D.C. Circuit Court of Appeals issued an unanimous decision striking down the "no standard" standards as ". . . Contrary to law" and directing DOE to initiate a new rulemaking in accordance with EPCA and NECPA (*NRDC* v. *Herrington,* 768 F. 2d 1355, D.C. Cir. 1985).

While this new rulemaking was being initiated at DOE, representatives of the affected industries and the NRDC reached agreement on national standards. This agreement was presented to Congress and enacted as Public Law 100-12, on March 17, 1987. In addition to establishing standards for 12 classes of products, the law preempts States from enacting energy efficiency standards for the 12 products. The preemption feature of the law reduces the regulatory burden on industry by replacing an ever-changing patchwork of State standards with a single Federal standard.

The NRDC and fluorescent ballast manufacturers had hoped that last year's legislation would include standards for ballasts. Howev-

er, they were not included because final agreement was not reached on how the standards should be formulated.

Recently, agreement was reached between NRDC and the National Electric Manufacturers Association (NEMA), representing the ballast manufacturers, on standards for ballasts. The treatment of the ballasts under this agreement would parallel treatment of the other covered products under the existing law. Specifically, S. 2167 would amend the Energy Policy and Conservation Act by adding a new product and establishing a minimum energy efficiency; the standard would phase-in by April 1, 1991; and the Secretary of Energy would be required to review the standard by January 1, 1992, and every 5 years thereafter. The standard also, under existing law, would preempt all State energy efficiency standards for ballasts.

The treatment of ballasts under this bill would differ from the treatment of other covered products as established under Public Law 100–12, in three respects: First, the standard would apply not only to the manufacture of ballasts, but also to their sale and incorporation into lighting fixtures. These additional prohibitions are designed to prevent the stockpiling of less efficient, and less expensive, ballasts by manufacturers who could thereby gain a competitive advantage in the fluorescent lighting market. The Committee understands that the enforcement of these two additional prohibitions would be provided primarily by industry members who would be able to bring action against other industry members under section 335 of EPCA.

Second, the initial standards apply only to the four most commonly used fluorescent lamp ballasts (these represent about 85 percent of the ballast market), but at the time the Secretary of Energy undertakes the periodic review of the initial standards in 1992, he may determine that the standard should be extended to cover fluorescent lamp ballasts other than those covered in the initial standards.

Third, the standards for ballasts are intended to apply to each individual ballast. Under the existing law, the standards for other consumer products apply to a random sample of that product and therefore an individual unit may be either more efficient or less efficient than the efficiency standard, provided the random sample complies with the standard, without being in violation of the law.

Legislative History

S. 2167 was introduced on March 15, 1988, as was the House companion measure, H.R. 4158. The Senate Subcommittee on Regulation and Conservation held a hearing on March 29, 1988.

Committee Recommendation and Tabulation of Votes

The Committee on Energy and Natural Resources, in open business session with a quorum present on May 11, 1988, by a vote of 18 yeas and zero nays, recommends that the Senate pass S. 2167, if amended as described herein.

The rollcall vote on reporting the measure was 18 yeas, zero nays, as follows:

Yeas	Nays
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum	
Mr. Bradley	
Mr. Bingaman	
Mr. Wirth	
Mr. Fowler	
Mr. Conrad	
Mr. McClure	
Mr. Hatfield*	
Mr. Weicker	
Mr. Domenici*	
Mr. Wallop*	
Mr. Murkowski*	
Mr. Nickles	
Mr. Hecht	
Mr. Evans	

* Indicates voted by proxy.

Committee Amendments

The Committee ordered S. 2167 reported with technical and clarifying amendments. These amendments make technical corrections to several definitions used in the bill and they clarify two points of possible ambiguity.

First, the bill provides initial definitions and procedures for establishing ballast standards which are based on American National Standards Institute (ANSI) Standard C82.2–1984. As ANSI updates these definitions and procedures a mechanism is provided under the bill to update the definitions and procedures of the Federal standard. Accordingly, the phrase "or as may be prescribed by Secretary" is added at the appropriate points in the legislation to authorize the Secretary of Energy to update certain definitions and procedures. The Committee intends and expects that the Secretary, when undertaking such updating, will continue the current practice of adopting definitions, procedures, and other regulatory practices that are developed through consensus by independent testing organizations such as the American National Standards Institute.

Second, section 321(a) of Part B of EPCA (42 U.S.C. 6291) defines the term "consumer product" in such a way that fluorescent light ballasts are not included, and thus, are not currently within the scope of Part B of EPCA. Accordingly, section 321(a) of EPCA is amended by the Committee amendment to include fluorescent light ballasts as a consumer product for the purposes of the Act.

Cost and Budgetary Considerations

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 13, 1988.

Hon. J. BENNETT JOHNSTON, Jr.,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 2167, the National Appliance Energy Conservation Amendments of 1988, as ordered reported by the Senate Committee on Energy and Natural Resources, May 11, 1988.

S. 2167 amends the Energy Policy and Conservation Act to establish energy conservation standards for fluorescent lamp ballasts. The bill establishes ballast efficacy factors for fluorescent lamp ballasts manufactured after January 1, 1990. In addition, these standards are to be reviewed by the Secretary of Energy no later than January 1, 1992, and are to be reviewed a second time, five years later.

CBO estimates that the Department of Energy's review of fluorescent lamp ballast efficacy factors in 1991 would cost less than $500,000. S. 2167 is expected to have no other significant impact on federal spending for fiscal years 1989 through 1993.

Enactment of this bill would not directly affect the budgets of state or local governments.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
Acting Director.

REGULATORY IMPACT EVALUATION

Under existing law the Department of Energy is required to implement Federal energy efficiency standards for 12 consumer products. S. 2167 would add fluorescent light ballasts as a covered product under this program.

S. 2167 would substantially reduce the regulatory and economic burdens of State regulations on the ballast manufacturing industry by preempting State authority to establish such standards. On the other hand, S. 2167 would increase Federal regulations by expanding the existing consumer product energy efficiency program to include a new product for which standards must be promulgated. Although it is not possible to quantify the degree to which regulations are increased or decreased by S. 2167, it is expected that the net effect of the measure would be to reduce regulation of this consumer product. This conclusion is supported by a strong consensus within the affected industry that this bill would reduce their regulatory and economic costs, and thus, industry supports enactment of the bill.

EXECUTIVE COMMUNICATIONS

The Committee has received no reports or communications relating to S. 2167 other than the views of the Administration submit-

ted for the hearing held by the Subcommittee on Regulation and Conservation. Those views of the Administration follow:

STATEMENT OF DONNA R. FITZPATRICK, ASSISTANT SECRETARY FOR CONSERVATION AND RENEWABLE ENERGY, U.S. DEPARTMENT OF ENERGY

Mr. Chairman, thank you for the opportunity to discuss the Energy Conservation Program for Consumer Products and comment on the provisions of the National Appliance Energy Conservation Amendments (NAECA) of 1988, S. 2167, a bill to amend the Energy Policy and Conservation Act (EPCA).

The Department opposes enactment of S. 2167. The bill would add fluorescent lamp ballasts to the Department's Appliance Program and would establish energy conservation standards and labeling requirements for these ballasts.

The Department believes that mandatory Federal efficiency standards would place unnecessary restraints on the manufacturers of lamp ballasts. The Administration firmly believes that Federal intervention in the marketplace is generally ill-advised and that Federal regulation more often than not results in a loss of efficiency in the affected industry.

An example of such ill-advised regulation is the Federal Corporate Average Fuel Economy (CAFE) program. Now that market forces have pushed the average fuel economy of the new car fleet beyond the levels set by the standards, the economic distortions caused by the CAFE standards are becoming more evident. Due to the requirements of this regulatory program, domestic auto manufacturers have an incentive to move production of certain types of vehicles to foreign manufacturing sites, thus having a potential negative impact on domestic employment. The CAFE standard is having little or no effect on the efficiency of the on-the-road fleet, but it can hurt the domestic auto industry.

On the other hand, appliance manufacturers continued to improve the energy efficiency of their products during the years in which they operated free of Federal standards. Although continued improvement in energy efficiency is expected under the EPCA program, most of this progress would have occurred in any event because it had been previously included in industry's retooling plans. Analysis indicates that consumers tend to purchase the more efficient appliances regardless of the existence or nonexistence of Federal standards. For example, since 1972 the average efficiency of refrigerators actually purchased improved over 79 percent, freezers improved about two-thirds, and clothes washers showed an improvement of 50 percent—all in the absence of Federal standards.

In the case of fluorescent light ballasts, most of the ballasts sold in the United States today already meet the proposed standards. Therefore, the legislation would do little except impose a new burden on the industry and the government to assure that what is happening already will continue. There is no reason to think that it will not.

Furthermore, we do not believe that any actions should be taken that would discourage the use or increase the cost of fluorescent

lighting, because fluorescent lighting is more cost-effective and energy efficient than incandescent lighting.

In addition to these fundamental reasons for opposing this amendment, there are other problems with the proposed legislation. For instance, the Department has technical concerns with the proposal as it relates to program coverage, test procedures, and labeling issues.

The history of EPCA shows that Congress intended a regulatory system for residental appliances. Section 321 of EPCA defines a consumer product as one being "distributed in commerce for personal use or consumption by individuals". The 12 products covered by EPCA are all residential products. The covered products are refrigerators, refrigerator-freezers and freezers, room air conditioners, central air conditioners, furnaces, water heaters, clothes dryers, clothes washers, dishwashers, kitchen ranges and ovens, direct heating equipment, pool heaters, and television sets.

The 277-volt ballast included in the bill is strictly a commercial product. Similarly, 96-inch fluorescent lamps, F96T12 and F96T12H0 lamps, typically are for commercial applications. Therefore, we recommend that both of these products be excluded from the bill because they are commercial products outside the original scope of EPCA.

NAECA 1988 would add 277-volt fluorescent lamp ballasts to the list of covered products in section 322 without changing the definition of "consumer product" to include commercial products. If EPCA were amended as proposed, section 322 would exclude commercial products; while at the same time it would also include commercial ballasts. If EPCA is amended to include commercial products such as 277-volt fluorescent lamp ballasts, we believe care should be taken to limit coverage to the residential products presently identified to exclude other commercial products, e.g., commercial refrigerators, from the program. We believe that the inclusion of commercial products is unjustified and would place unnecessary restraints on the marketplace.

The amendments to section 323(b) of the Act are rather restrictive in that they mandate a particular test procedure for ballasts and appear to prohibit the Department from considering any alternative test procedures. It would be better to direct that the test method will be as specified in the legislation or "as may be prescribed by the Secretary." This will provide the Department the flexibility that we have found necessary to administer our current test procedure responsibilities.

Section 324(a)(1), labeling, should be changed so that "(1) through (9)" is changed to "1, 2, 4, 6, 7, 8, 9, 10, and 12" and that "(10) through (13)" in section 324(a)(2) is changed to "3, 5, 9, 11, 13, and 14". These changes are necessary as a result of the National Appliance Energy Conservation Act (NAECA) of 1987 amendments and NAECA 1988. NAECA 1987 reordered the list of products in section 322 without making the corresponding corrections to section 324. Therefore, the simple addition of the new products to section 324 simply compounds this error.

Section 324(a)(2) of EPCA requires that labeling rules assist consumers in making purchasing decisions. NAECA 1988 would extend this requirement to fluorescent lamp ballasts and would require a

capital letter "E" printed within a circle on the ballast and on the packaging of the ballast or on the fixture into which the ballast has been incorporated. This labeling requirement is of little value to consumers because once the standards and labeling requirements are in effect, all products manufactured after that date would have the "E" label. The label would seem to be useless since it would not differentiate the energy performance of one product from another.

In closing, I would like to make my staff available to the Committee to assist in making necessary revisions to the bill so that our technical concerns are resolved. However, I must emphasize that the much better course would be not to enact the proposed legislation.

CHANGES IN THE EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, S. 2167, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ENERGY POLICY AND CONSERVATION ACT

* * * * * * *

TITLE III—IMPROVING ENERGY EFFICIENCY

* * * * * * *

PART B—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

DEFINITIONS

SEC. 321. (a) For purposes of this part:

(1) The term "consumer product" means any article (other than an automobile, as defined in section 501(1) of the Motor Vehicle Information and Cost Savings Act) of a type—

(A) which in operation consumes, or is designed to consume, energy; and

(B) which, to any significant extent, is distributed in commerce for personal use or consumption by individuals; without regard to whether such article or such type is in fact distributed in commerce for personal use or consumption by an individual[.], *except that such term includes fluorescent lamp ballasts distributed in commerce for personal or commercial use or consumption.*

(2) The term "covered product" means a consumer product of a type specified in section 322.

(3) The term "energy" means electricity, or fossil fuels. The Administrator may, by rule, include other fuels within the meaning of the term "energy" if he determines that such inclusion is necessary or appropriate to carry out the purpose of this Act.

(4) The term "energy use" means the quantity of energy directly consumed by a consumer product at point of use, determined in accordance with test procedures under section 323.

(5) The term "energy efficiency" means the ratio of the useful output of services from a consumer product to the energy use of such product, determined in accordance with test procedures under section 323.

(6) The term "energy conservation standard" means—

(A) a performance standard which prescribes a minimum level of energy eficiency or a maximum quantity of energy use for a covered product, determined in accordance with test procedures prescribed under section 323; or

(B) a design requirement of the products specified in paragraphs (6), (7), (8), (10), and [(13] *(14)* of section 322(a); and includes any other requirements which the Secretary may prescribe under section 325(o.)

(7) The term "estimated annual operating cost" means the aggregate retail cost of the energy which is likely to be consumed annually in representative use of a consumer product, determined in accordance with section 323.

(8) The term "measure of energy consumption" means energy use, energy efficiency, estimated annual operating cost, or other measure of energy consumption.

(9) The term "class of covered products" means a group of covered products, the functions or intended uses of which are similar (as determined by the Administrator).

(10) The term "manufacture" means to manufacture, produce, assemble or import.

(11) The terms "import" and "importation" mean to import into the customs territory of the United States.

(12) The term "manufacturer" means any person who manufactures a consumer product.

(13) The term "retailer" means a person to whom a consumer product is delivered or sold, if such delivery or sale is for purposes of sale or distribution in commerce to purchasers who buy such product for purposes other than resale.

(14) The term "distributor" means a person (other than a manufacturer or retailer) to whom a consumer prouct is delivered or sold for purposes of distribution in commerce.

(15)(A) The term "private labeler" means an owner of a brand or trademark on the label of a consumer product which bears a private label.

(B) A consumer product bears a private label if (i) such product (or its container) is labeled with the brand or trademark of a person other than a manufacturer of such product, (ii) the person with whose brand or trademark such product (or container) is labeled has authorized or caused such product to be so labeled, and (iii) the brand or trademark of a manufacturer of such product does not appear on such label.

* * * * * * *

(28) The term "weatherized warm air furnace or boiler" means a furnace or boiler designed for installation outdoors, approved for

resistance to wind, rain, and snow, and supplied with its own venting system.

(29)(A) The term "fluorescent lamp ballast" means a device which is used to start and operate fluorescent lamps by providing a starting voltage and current and limiting the current during normal operation.

(B) The term "ANSI standard" means a standard developed by a committee accredited by the American National Standards Institute.

(C) The term "ballast efficacy factor" means the relative light output divided by the power input of a fluorescent lamp ballast, as measured under test conditions specified in ANSI standard C82.2–1984, or as may be prescribed by the Secretary.

(D)(i) The term "F40T12 lamp" means a nominal 40 watt tubular fluorescent lamp which is 48 inches in length and one-and-a-half inches in diameter, and conforms to ANSI standard C78.1–1978(R1984).

(ii) The term "F96T12 lamp" means a nominal 75 watt tubular fluorescent lamp which is 96 inches in length and one-and-a-half inches in diameter, and conforms to ANSI standard C78.3–1978(R1984).

(iii) The term "F96T12HO lamp" means a nominal 110 watt tubular fluorescent lamp which is 96 inches in length and one-and-a-half inches in diameter, and conforms to ANSI standard C78.1–1978(R1984).

(E) The term "input current" means the root-mean-square (RMS) current in amperes delivered to a fluorescent lamp ballast.

(F) The term "luminaire"means a complete lighting unit consisting of a fluorescent lamp or lamps, together with parts designed to distribute the light, to position and protect such lamps, and to connect such lamps to the power supply through the ballast.

(G) The term "ballast input voltage" means the rated input voltage of a fluorescent lamp ballast.

(H) The term "nominal lamp watts" means the wattage at which a fluorescent lamp is designed to operate.

(I) The term "power factor" means the power input divided by the product of ballast input voltage and input current of a fluorescent lamp ballast, as measured under test conditions specified in ANSI standard C82.2–1984, or as may be prescribed by the Secretary.

(J) The term "power input" means the power consumption in watts of a ballast and fluorescent lamp or lamps, as determined in accordance with the test procedures specified in ANSI standard C82.2–1984, or as may be prescribed by the Secretary.

(K) The term "relative light output" means the light output delivered through the use of a ballast divided by the light output delivered through the use of a reference ballast, expressed as a percent, as determined in accordance with the test procedures specified in ANSI standard C82.2–1984, or as may be prescribed by the Secretary.

(L) The term "residential building" means a structure or portion of a structure which provides facilities or shelter for human residency, except that such term does not include any multifamily residential structure of more than three stories above grade.

COVERAGE

SEC. 322. (a) IN GENERAL.—The following consumer products, excluding those consumer products designed solely for use in recreational vehicles and other mobile equipment, are covered products:

(1) Refrigerators, refrigerator-freezers, and freezers which can be operated by alternating current electricty, excluding—

(A) any type designed to be used without doors; and

(B) any type which does not include a compressor and condenser unit as an integral part of the cabinet assembly.

(2) Room air conditioners.

(3) Central air conditioners and central conditioning heat pumps.

(4) Water heaters.

(5) Furnaces.

(6) Dishwashers.

(7) Clothes washers.

(8) Clothes dryers.

(9) Direct heating equipment.

(10) Kitchen ranges and ovens.

(11) Pool heaters.

(12) Television sets.

(13) Fluorescent lamp ballasts.

[(13)] *(14)* Any other type of consumer product which the Secretary classifies as a covered product under subsection (b).

(b) SPECIAL CLASSIFICATION OF CONSUMER PRODUCT.—(1) The Administrator may classify a type of consumer product as as covered product if he determines that—

(A) classifying products of such type as covered products is necessary or appropriate to carry out the purposes of this Act, and

(B) average annual per-household energy use by products of such type is likely to exceed 100 kilowatt-hours (or its Btu equivalent) per year.

(2) For purposes of this subsection:

(A) The term "average annual per-household energy use" with respect to a type of product means the estimated aggregte annual energy use (in kilowatt-hours or the Btu equivalent) of consumer products of such type which are used households in the United States, divided by the number of such households which use products of such type.

(B) The Btu equivalent on one Kilowatt-hour is 3,412 British thermal units.

(C) The term "household" shall be defined under the rules of the Adminsitrator.

TEST PROCEDURES

SEC. 323. (a) GENERAL RULE.—All test procedures and related determinations prescribed or made by the Secretary with respect to any covered product (or class thereof) which are in effect on the date of enactment of the National Applicance Energy Conservation Act of 1987 shall remain in effect until the Secretary amends such test procedures and relate determinations under subsection (b).

(b) *Amended and New Procedures.*—(1)(A) The Secretary may amend test procedures with respect to any covered product if the

Secretary determines that amended test procedures would more accurately or fully comply with the requirements of paragraph (3).

(B) The Secretary may, in accordance with the requirements of this subsection, prescribe test procedures for any consumer product classified as a covered product under section 322(b).

(C) The Secretary shall direct the National Bureau of Standards to assist in developing new or amended test procedures.

(2) If the Secretary determines, on his own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, the Secretary shall promptly publish in the Federal Register proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such procedures. The comment period shall not be less than 60 days and may be extended for good cause shown to not more than 270 days. In prescribing or amending a test procedure, the Secretary shall take into account such information as the Secretary determines relevant to such procedure, including technological developments relating to energy use or energy efficiency of the type (or class) of covered products involved.

(3) Any test procedures prescribed or amended under this section shall be reasonably designed to produce test results which measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use, as determined by the Secretary, and shall not be unduly burdensome to conduct.

(4) If the test procedure is a procedure for determining estimated annual operating costs, such procedure shall provide that such costs shall be calculated from measurements of energy use in a representative average use cycle or period of use, as determined by the Secretary, and from representative average unit costs of the energy needed to operate such product during such cycle. The Secretary shall provide information to manufacturers with respect to representative average unit costs of energy.

(5) With respect to fluorescent lamp ballasts manufactured on or after January 1, 1990, and to which standards are applicable under section 325, the Secretary shall prescribe test procedures that are in accord with ANSI standard C82.2–1984, or other test procedures determined appropriate by the Secretary.

* * * * * * *

LABELING

SEC. 324. (a) IN GENERAL.—(1) The Commission shall prescribe labeling rules under this section applicable to all covered products at each of the types specified in paragraphs (1), (2), (4), (6), and (8) through (12) of section 322(a), except to the extent that, with respect to any such type (or class thereof), the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible.

[(2) The**]** *(2)(A) The* Commission shall prescribe labeling rules under this section applicable to all covered products of each of the types specified in paragraphs (3), (5), and (7) of section 322(a), except to the extent that with respect to any type (or class thereof),

the Commission determines under the second sentence of subsection (b)(5) that labeling in accordance with this section is not technologically or economically feasible or is not likely to assist consumers in making purchasing decisions.

(B) The Commission shall prescribe labeling rules under this section applicable to the covered product specified in paragraph (13) of section 322(a) and to which standards are applicable under section 325. Such rules shall provide that the labeling of any fluorescent lamp ballast manufactured on or after January 1, 1990, will indicate conspicuously, in a manner prescribed by the Commission under subsection (b) by July 1, 1989, a capital "E" printed within a circle on the ballast and on the packaging of the ballast or of the luminaire into which the ballast has been incorporated.

(3) The Commission may prescribe a labeling rule under this section applicable to covered products of a type specified in paragraph [13] *(14)* of section 322(a) (or a class thereof) if—

(A) the Commission or the Secretary has made a detemination with respect to such type (or class thereof) that labeling in accordance with this section will assist purchasers in making purchasing decisions,

(B) the Administration has prescribed test procedures under section 323(b)(1)(B) for such type (or class thereof), and

(C) the Commission determines with respect to such type (or class thereof) that application of labeling rules under this section to such type (or class thereof) is economically and technologically feasible.

(4) Any determination under this subsection shall be published in the Federal Register.

(b) RULES IN EFFECT; NEW RULES.—(1)(A) Any labeling rule in effect on the date of the enactment of the National Appliance Energy Conservation Act of 1987 shall remain in effect until amended, by the Commission.

(B) After the date of the enactment of the National Appliance Conservation Act of 1987 and not later than 30 days after the date on which a proposed test procedure applicable to a covered product of any of the types specified in paragraphs (1) through [13] *(14)* of section 322(a) (or class thereof) is prescribed under section 323(b), the Commission shall publish a proposed labeling rule applicable to such type (or class thereof).

(2) The Commission shall afford interested persons an opportunity to present written or oral data, views, and comments with respect to the proposed labeling rules published under paragraph (1) The period for such presentations shall not be less than 45 days.

(3) Not earlier than 45 days nor later than 60 days after the date on which test procedures are prescribed under section 323(b) with respect to covered products or any type (or class thereof) specified in paragraphs (1) through (12) of section 322(a), the Commission shall prescribe labeling rules with respect to covered products of such types (or class thereof). Not earlier than 45 days after the date on which test procedures are prescribed under section 323(b) with respect to covered products of a type specified in paragraph [13] *(14)* of section 322(a) the Commission may prescribe labeling rules with respect to covered products of such type (or class thereof).

(4) A labeling rule prescribed under paragraph (3) shall take effect not later than 3 months after the date of prescription of such rule, except that such rules may take effect not later than 6 months after such date of prescription if the Commission determines that such extension is necessary to allow persons subject to such rules adequate time to come into compliance with such rules.

(5) The Commission may delay the publication of a proposed labeling rule, or the prescription of a labeling rule, beyond the dates specified in paragraph (1) or (3), if it determines that it cannot publish proposed labeling rules or prescribe labeling rules which meet the requirements of this section on or prior to the date specified in the applicable paragraph and publishes such determination in the Federal Register, together with the reasons therefor. In any such case, it shall publish proposed labeling rules or prescribe labeling rules for covered products of such type (or class thereof) as soon as practicable unless it determines (A) that labeling in accordance with this section is not economically or technically feasible, or (B) in the case of a type specified in paragraphs (3), (5) and (7) of section 322(a), that labeling in accordance with this section is not likely to assist consumers in purchasing decisions. Any such determination shall be published in the Federal Register, together with the reasons therefor. This paragraph shall not apply to the prescription of a labeling rule with respect to covered products of a type specified in paragraph [13] *(14)* of section 322(a)

(c) CONTENT OF LABEL.—(1) Subject to paragraph (6), a rule prescribed under this section shall require that each covered product in the type or class of covered products to which the rule applies bear a label which discloses—

* * * * * * *

(6) The Commission may delay the effective date of the requirement specified in paragraph (1)(B) of this subsection applicable to a type or class of covered product, insofar as it requires the disclosure on the label of information respecting range of a measure of energy consumption, for not more than 12 months after the date on which the rule under this section is first applicable to such type or class, if the Commission determines that such information will not be available within an adequate period of time before such date.

(d) EFFECTIVE DATE.—A rule under this section (or an amendment thereto) shall not apply to any covered product the manufacture of which was completed prior to the effective date of such rule or amendment, as the case may be.

(e) STUDY OF CERTAIN PRODUCTS.—The Adminstrator, in consultation with the Commission, shall study consumer products for which labeling rules under this section have not been proposed, in order to determine (1) the aggregate energy consumption of such products, and (2) whether the imposition of labeling requirements under this section would be feasible and useful to consumers to making purchasing decisions. The Administrator shall include the results of such study in the annual report under section 338.

(f) CONSULTATION.—The Administrator and the Commission shall consult with each other on a continuing basis as may be necessary or appropriate to carry out their respective responsibilities under this part. Before the Commission makes any determination under

subsection (a)(1), it shall obtain the views of the Administrator and shall take such views into account in making such determination.

(g) OTHER AUTHORITY OF THE COMMISSION.—Until such time as labeling rules under this section take effect with respect to a type or class of covered product, this section shall not affect any authority of the Commission under the Federal Trade Commission Act to require labeling with respect to energy consumption of such type or class of covered product.

(7) Paragraphs (1), (2), (3), (5), and (6) of this subsection shall not apply to the covered product specified in paragraph (13) of section 322.

ENERGY CONSERVATION STANDARDS

SEC. 325. (a) PURPOSE.—The prupose of this section are to—

(1) provide Federal energy conservation standards applicable to covered products: and

(2) authorize the Secretary to prescribe amended or new energy conservation standards for each type (or class) of covered product.

* * * * * * *

(e) STANDARDS FOR WATER HEATERS; POOL HEATERS; DIRECT HEATING EQUIPMENT.—(1) The energy factor of water heaters shall be not less than the following for products manufactured on or after January 1, 1990:

(A) Gas Water Heater:	.62–(.0019 x Rated Storage Volume in gallons)
(B) Oil Water Heater:	.59–(.0019 x Rated Storage Volume in gallons)
(C) Electric Water Heater:	.95–(.00132 x Rated Storage *Volume* in gallons)

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(g) STANDARDS FOR DISHWASHERS, CLOTHES WASHERS, CLOTHES DRYERS, *FLUORESCENT LAMP BALLASTS.*—(1) Dishwashers manufactured on or after January 1, 1988, shall be equipped with an option to dry without heat.

(2) All rinse cycles of clothes washers shall include an unheated water option, but may have a heated water rinse option, for products manufactured on or after January 1, 1988.

(3) Gas clothes dryers shall not be equipped with a constant burning pilot for products manufactured on or after January 1, 1988.

(4)(A) The Secretary shall publish final rules no later than January 1, 1990, to determine if the standards established under this subsection for products described in paragraph (1), (2), and (3) should be amended. Such rules shall provide that any amendment shall apply to products the manufacture of which is completed on or after January 1, 1993.

(B) After January 1, 1990, the Secretary shall publish a final rule no later than five years after the date of publication of the previous final rule. The Secretary shall determine in such rule whether to amend the standards in effect for such products.

(C) Any such amendment shall apply to products manufactured after a date which is five years after—

(i) the effective date of the previous amendment; or

(ii) if the previous final rule did not amend the standard, the earliest date by which a previous amendment could have been in effect; except that in no case may any amended standard apply to products manufactured within three years after publication of the final rule establishing such standard.

(5) Except as provided in paragraph (6), each fluorescent lamp ballast—

(A)(i) manufactured on or after January 1, 1990.

(ii) sold by the manufacturer on or after April 1, 1990; or

(iii) incorporated into a luminaire by a luminaire manufacturer on or after April 1, 1991; and

(B) designed—

(i) to operate at nominal input voltages of 120 of 277 volts;

(ii) to operate with an input current frequency of 60 Hertz; and

(iii) for use in connection with an F40T12, F96T12, or F96T12HO lamps;

shall have a power factor of 0.90 or greater and shall have a ballast efficacy factor not less than the following:

Application for Operation of	*Ballast Input Voltage*	*Total Nominal Lamp Watts*	*Ballast Efficacy Factor*
One F40T12 lamp	*120*	*40*	*1.805*
	277	*40*	*1.805*
Two F40T12 lamps	*120*	*80*	*1.050*
	277	*80*	*1.050*
Two F96T12 lamps	*120*	*150*	*0.570*
	277	*150*	*0.570*
Two F96T12HO lamps	*120*	*220*	*0.390*
	277	*220*	*0.390*

(6) The standards described in paragraph (5) do not apply to (A) a ballast which is designed for dimming or for use in ambient temperatures of 0° F or less, or (B) a ballast which has a power factor of less than 0.90 and is designed for use only in residential building applications.

(7)(A) The Secretary shall publish a final rule no later than January 1, 1992, to determine if the standards established under paragraph (5) should be amended, including whether such standards should be amended so that they would be applicable to ballasts described in paragraph (6) and other fluorescant lamp ballasts. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1995.

(B) After January 1, 1992, the Secretary shall publish a final rule no later than five years after the date of publication of a previous final rule. The Secretary shall determine in such rule whether to amend the standards in effect for fluorescent lamp ballasts, includ-

ing whether such standards should be amended so that they would be applicable to additional fluorescent lamp ballasts.

(C) Any amendment prescribed under subparagraph (B) shall apply to products manufactured after a date which is five years after—

(i) the effective date of the previous amendment; or

(ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective; except that in no case may any amended standard apply to products manufactured within three years after publication of the final rule establishing such amended standard.

(h) STANDARDS FOR KITCHEN RANGES AND OVENS.—(1) Gas kitchen ranges and ovens having an electricl supply cord shall not be equipped with a constant burning pilot for products manufactured on or after January 1, 1990.

(2)(A) The Secretary shall publish a final rule no later than January 1, 1992, to determine if the standards established for kitchen ranges and ovens in this subsection should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1995.

(B) The Secretary shall publish a final rule no later than January 1, 1997, to determine whether standards in effect for such products should be amended. Such rule shall apply to products manufactured on or after January 1, 2000.

(1) Standards for other covered products.—(1) The Secretary may prescribe an energy conservation standard for any type (or class) of covered products of a type specified in paragraph [(13)] *(14)* of section 322(a) if the requirements of subsections (l) and (m) are met and the Secretary determines that—

(A) the average per household energy use within the United States by products of such type (or class) exceeded 150 kilowatt-hours (or its Btu equivalent) for any 12-month period ending before such determination;

(B) the aggregate household energy use within the United States by products of such type (or class) exceeded 4,200,000,000 killowatt-hours (or its Btu equivalent) for any such 12-month period;

(C) substantial improvement in the energy efficiency of products of such type (or class) is technologically feasible; and

(D) the application of a labeling rule under section 324 to such type (or class) is not likely to be sufficient to induce manufacturers to produce, and consumers and other persons to purchase, covered products of such type (or class) which achieve the maximum energy efficiency which is technologically feasible and economically justified.

(2) Any new or amended standard for covered products of a type specified in paragraph (13) of section 322(a) shall not apply to products manufactured within five years after the publication of a final rule establishing such standard.

(3) The Secretary may, in accordance with subsections (l) and (m), prescribe an energy conservation standard for television sets. Any

such standard may not become effective with respect to products manufactured before January 1, 1992.

(l) FURTHER RULEMAKING.—After issuance of the last final rules required under subsections (b) through (h) of this section, the Secretary may publish final rules to determine whether standards for a covered product should be amended. An amendment prescribed under this subsection shall apply to products manufactured after a date which is 5 years after—

(A) the effective date of the previous amendment made pursuant to this part; or

(B) if the previous final rule published under this part did not amend the standard, the earliest date by which a previous amendment could have been in effect, except that in no case may an amended standard apply to products manufactured within 3 years (for refrigerators, refrigerator-freezers, and freezers, room air conditioners, dishwashers, clothes washers, clothes dryers, *fluorescent lamp ballasts, and kitchen ranges and* ovens) or 5 years (for central air conditioners and heat pumps, water heaters, pool heaters, direct [hearing] *heating* equipment and furnaces) after publication of the final rule establishing a standard.

(k) PETITION FOR AN AMENDED STANDARD.—(1) With respect to each covered product described in paragraphs (1) through (11) *and in paragraph (13)* of section 322(a), any person may petition the Secretary to conduct a rulemaking to determine for a covered product if the standards contained either in the last final rule required under subsections (b) through (h) of this section or in a final rule published under this section should be amended.

(2) The Secretary shall grant a petition if he finds that it contains evidence which, assuming no other evidence were considered, provides an adequate basis for amending the standards under the following criteria—

(A) amended standards will result in significant conservation of energy;

(B) amended standards are technologically feasible; and

(C) amended standards are cost effective as described in subsection (1)(2)(B)(i)(II).

The grant of a petition by the Secretary under this subsection creates no presumption with respect to the Secretary's determination of any of the criteria in a rulemaking under this section.

(3) An amendment prescribed under this subsection shall apply to products manufactured after a date which is 5 years after—

(A) the effective date of the previous amendment pursuant to this part; or

(B) if the previous final rule published under this part did not amend the standard, the earliest date by which a previous amendment could have been in effect, except that in no case may an amended standard apply to products manufactured within 3 years (for refrigerators, refrigerator-freezers, and freezers, room air conditioners, dishwashers, clothes washers, clothes dryers, *fluorescent lamp ballasts,* and kitchen ranges and ovens) or 5 years (for central air conditioners and heat pumps, water heaters, pool heaters, direct heating equipment

and furnaces) after publication of the final rule establishing a standard.

* * * * * * *

EFFECT ON OTHER LAW

SEC. 327. (a) PREEMPTION OF TESTING AND LABELING REQUIREMENTS.—(1) Effective on the date of enactment of the National Appliance Energy Conservation Act of 1987, this part supersedes any State regulation insofar as such State regulation provides at any time for the disclosure of information with respect to any measure of energy consumption of any covered product if—

(A) such State regulation requires testing or the use of any measure of energy consumption or energy descriptor in any manner other than that provided under section 323; or

(B) such State regulation requires disclosure of information with respect to the energy use or energy efficiency of any covered product other than information required under section 324.

(2) For purposes of this section, the term "State regulation" means a law, regulation, or other requirement of a State or its political subdivisions.

(b) GENERAL RULE OF PREEMPTION FOR ENERGY CONSERVATION STANDARDS BEFORE FEDERAL STANDARD BECOMES EFFECTIVE FOR A PRODUCT.—Effective on the date of enactment of the National Appliance Energy Conservation Act of 1987 and ending on the effective date of an energy conservation standard established under section 325 for any covered product, no State regulation, or revision thereof, concerning the energy efficiency or energy use of the covered product shall be effective with respect to such covered product, unless the State regulation or revision—

(1) was prescribed or enacted before January 8, 1987, and is applicable to products before January 3, 1988, *or in the case of any portion of any regulation which establishes requirements for fluorescent lamp ballasts, was prescribed or enacted before the date of the enactment of the National Appliance Energy Conservation Amendments of 1988;*

(2) is a State procurement regulation described in subsection (e);

(3) is a regulation described in subsection (f)(1) or is prescribed or enacted in a building code for new construction described in subsection (f)(2);

(4) is a regulation prohibiting the use in pool heaters of a constant burning pilot, *or is a regulation (or portion thereof) regulating fluorescent lamp ballasts other than those to which paragraph (5) of section 325(g) is applicable;*

(5) is a regulation described in subsection (d)(5)(B) for which a waiver has been granted under subsection (d); or

(6) is a regulation effective on or after January 1, 1992, concerning the energy efficiency or energy use of television sets.

(c) GENERAL RULE OF PREEMPTION FOR ENERGY CONSERVATION STANDARDS WHEN FEDERAL STANDARD BECOMES EFFECTIVE FOR A PRODUCT.—Except as provided in section 325(b)(3)(A)(II) and effective on the effective date of an energy conservation standard established in or prescribed under section 325 for any covered product,

no State regulation concerning the energy efficiency or energy use of such covered product shall be effective with respect to such product unless the regulation—

(1) is a regulation described in paragraph (2) or (4) of subsection (b), *except that a State regulation (or portion thereof) regulating fluorescent lamp ballasts other than those to which paragraph (5) of section 325(g) is applicable shall be effective only until the effective date of a standard that is prescribed by the Secretary under paragraph (7) of such section and is applicable to such ballasts*;

(2) is a regulation which has been granted a waiver under subsection (d); or

(3) is a building code for new construction described in subsection (f)(3).

(d) WAIVER OF FEDERAL PREEMPTION.—(1)(A) Any State with a State regulation which provides for any energy conservation standard or other requirement with respect to energy use or energy efficiency for any type (or class) of covered product for which there is a Federal energy conservation standard under section 325 may file a petition with the Secretary requesting a rule that such State regulation become effective with respect to such covered product.

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